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INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER PERSPECTIVE: VIOLENCE AGAINST WOMEN

Written statement*/ submitted by the Asian Legal Resource Centre,
a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 December 2000]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

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Lack of legal and institutional remedies for violence against women in Asia

1. The Declaration on the Elimination of Violence against Women (1993) recognised violence against women as constituting "a violation of the rights and fundamental freedoms of women [that] impairs and nullifies their enjoyment of those rights and freedoms..." The Beijing Platform for Action (1995) exhorted governments to

   a. "Enact and/or reinforce penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs done to women and girls who are subjected to any form of violence, whether in the home, the workplace, the community or society"; and,

   b. "Adopt and/or implement and periodically review and analyse legislation to ensure its effectiveness in eliminating violence against women, emphasizing the prevention of violence and the prosecution of offenders; take measures to ensure the protection of women subjected to violence, access to just and effective remedies, including compensation and indemnification and healing of victims, and rehabilitation of perpetrators."

2. However subsequent reports monitoring progress to stop violence against women in Asian countries reveal a dismal failure, especially on the part of governments and state institutions, to come to grips with the deeply embedded, systemic nature of violence against women in Asian societies. The United Nations Population Fund's *State of the World Population 2000* report, for instance, observes that

   a. Each year the world's women have 80 million unwanted pregnancies, undergo 20 million unsafe abortions, suffer millions of beatings and rapes, are often killed at birth because of their gender and are sometimes murdered in so-called "honour killings".
   b. Violence against women in Bangladesh is the worst in the world, with 47% of all women violently assaulted by their male partners. In India, 40% of women suffer violence.

   c. In developing countries, medical professionals attend only 53% of births, while almost 30% -- some 38 million each year -- receive no medical care after giving birth. Complications from pregnancy kill one in every 48 pregnant women in the developing world. Unsafe abortions cause the deaths of 78,000 women annually and suffering for millions more.

   d. At least 60 million girls are "missing", mostly in Asia, as a result of infanticide or sex-selective abortions, while an additional 5,000 are murdered each year, most in the Middle East, by their own families in "honour" killings. Some victims of honour killings are murdered for having been raped.

3. In Asia, one of the greatest obstacles to the elimination of violence against women is not only inadequate national legislation, but that state institutions – including the judiciary and police – lack the knowledge and will to affect the changes in attitudes, laws and procedures necessary to prevent gender violence and provide remedies where necessary. The lack of will to effect reforms in the interest of women's rights lies with the deep-rooted gender bias in both personal attitudes of state officials as well as in the structures and procedures of state institutions, reinforced by many traditional, religious and cultural norms and practices.

4. The recent report of the United Nations Development Fund for Women (UNIFEM), *With An End in Sight: Strategies from the UNIFEM Trust Fund to Eliminate Violence against Women*, discusses the need for reform and sensitization of legal institutions in Asia. It notes that violence against women is sanctioned when allowed to go unpunished, and continues, "But punishment, to be effective, requires several elements, including legal sanction, judicial and law enforcement action, and community approbation. In some cases, the laws that make violence a crime also serve to perpetuate it. In many countries, for example, the law still allows rape charges to be dropped if the perpetrator marries his victim." Take this example from India, where a woman's fate was decided for her by rape and social pressure:

> The court of the additional judicial commissioner of Ranchi ordered Mustafa Ansari of Pipra Toll in Ranchi district to marry the girl he had raped, Roshan Khatoon, of the same village. Finding the girl alone at home Mustafa raped her at 8 pm on May 3, 1999. The next day an FIR was lodged against him and Mustafa was subsequently arrested and lodged at the Birsa Munda Central Jail on June 4, 1999. While in jail Mustafa expressed his desire to marry Roshan. Apparently he had fallen in love with Roshan and distressed by her rejection he had avenged himself by raping her when she was alone. Mustafa's proposal was conveyed to the court of additional judicial commissioner Justice PK Sinha. The judge granted his request, the girl 's family was contacted and Roshan agreed to marry Mustafa. (The Indian Telegraph, September 1, 2000)

5. The UNIFEM report observes that contradictions in laws may also serve to perpetuate gender-based violence, especially when customary laws regarding divorce and alimony, or family maintenance payments, make it difficult for a married woman to escape an abusive situation, especially if she has children. The result may be dowry killings and acid attacks, common in India and Bangladesh:

> A total of 6,917 women died in 1998, up from 5,513 in 1996, because their families could not meet the dowry demands of their husbands, according to India's National Crime Records Bureau. Many were burned or otherwise abused, and their deaths portrayed by their husbands' families as suicides or accidents. Many more are harassed physically and mentally in other ways... India's laws forbid such practices but they are not always enforced and women and their parents are often afraid to file police reports. Convictions for dowry-related killings are declining, totaling 5.2% in 1997 and 4.9% in 1998. Meanwhile, social stigma and

economic factors make it difficult for women to leave their husbands to live on their own or to return to their parents.

> [Up] to 460 women were killed between January and June in Bangladesh, with many of the deaths blamed on suicide due to diseases. Concerned parties failed to file court cases in a number of instances, generally because of cost and the lengthy judicial process. Some alleged incidents involve the use of a skin-burning acid as well as severe beating… Hundreds of young women are being attacked "simply because they dared to say no to men." Many of the victims are teenagers from very poor families who are attacked after rejecting a man's marriage proposal. Acid throwing was ruled a capital offense in 1983, with punishment as severe as a death sentence. But no executions have resulted from the ruling. In 1998, there were 145 reported incidents of acid attacks, 87 cases filed and 14 men sentenced to life in prison, according to the Bangladesh National Women Lawyers Association. Only 10% of attackers are ever brought to trial (UN Wire, July 7, 2000)

6. In many cases, UNIFEM notes, existing laws are insufficient due to inadequate understanding and enforcement. In Cambodia, for example, police and judges interpret the law such that a man attacking his wife is only guilty of a crime if the woman is "stabbed, shot, unconscious or dead"; domestic violence is viewed as a private matter unless the injuries are near-fatal or fatal.

7. Violence against women is legitimised by blaming the victim. If a woman has been raped, the UNIFEM report observes, "her moral character, her sexual history and even the clothes she was wearing at the time are all considered in conducting an evaluation of the validity of her complaint and her testimony". Beaten wives are asked by police and judicial officers as to what they did to incite their husbands. Women are conditioned by society and the justice system to believe that they are somehow responsible for physical and sexual assaults against them. In a recent survey on gender violence in Japan over half the women respondents stated that they had experienced verbal or physical abuse from their partners, against which they lack social and legal protection:

> One woman in the survey said that while she was bleeding after a severe beating by her husband, she sought help from the police. But she was just told to check into a hotel. "I was told coldly that it is just a matter between husband and wife," she wrote, echoing many other similar stories… (IPS, September 11, 2000)

8. Honor killings in South Asia, particularly Pakistan and Bangladesh, are a cause for considerable concern. According to the Human Rights Commission of Pakistan, the number of honour killings rose to over 1,100 in 2000. While the government has criticised the practice, the Human Rights Commission maintains that nothing is being done to stop it (UNWire, November 1, 2000). According to UNICEF women's groups, police are easily bribed or persuaded to drop complaints as "domestic accidents", and many judges do not even consider the killing of a wife by a husband

to be an act of murder. Some recent cases of extreme domestic violence include the cases of

> Perveen Aktar, 37, severely burned in September when her husband, a fruit peddler in Rawalpindi threw acid on her. According to Aktar, whose face, chest and back are badly scarred, her husband wanted to return to his first wife, and she refused. She said she went to the police, but that her husband paid them a series of bribes and they did not investigate. He has since fled to another city.
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> Kousar Perveen, a 32-year-old mother of four from Talagang, about 100 miles south of Islamabad, allegedly beaten and burned to death by her in-laws in February. According to her parents and sisters, the in-laws had forbidden her to leave their house, even to visit her ailing parents or attend a cousin's wedding, and she had quarreled bitterly with them... The in-laws reportedly claimed she had been burned in a kitchen fire, but her family said she had been tied up and murdered. Two people are under arrest, but no trial date has been set. (Washington Post Company, 2000)

9. Throughout Asia, legal processes biased in men's favour encourage violence against women. In country after country, women do not seek assistance from law enforcement institutions because they expect little response and possibly considerable humiliation. The Asian Legal Resource Centre exhorts all governments to uphold the rights of women to "equal protection of the law" (Universal Declaration of Human Rights, article 8) and to "exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private individuals" (Declaration on the Elimination of Violence against Women, article 4c).